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AUTHOR Jung, Richard K.
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ABSTRACT

While most categorical programs are subject to problems stemming from local, state, and Federal overlap, the problems produced by these parallel structures in bilingual education appear to be dissipating through local capacity-building, increased state legislation for bilingual education, and Federal awareness of its role and support for state and local education agencies' efforts. In reviewing the track record of block grants, the Advisory Commission on Intergovernmental Relations recommended the use of block grants instead of categorical programs "only under certain conditions." Three of these conditions do not seem to apply to most federal support of bilingual education: a high degree of consensus over general purposes among the Congress, the Federal administering agency, and recipients; widely shared program needs both geographically and jurisdictionally; and the broad functional area to be covered existing as a major component of the recipient's traditional range of services and direct funding. Major implications of these conditions for educational policymakers include: Congress and the Administration should encourage a wider dissemination and closer scrutiny of research on previous block grants; a systematic review should be made of present programs to determine which, if any, might logically be combined under a single authorization; and a systematic effort should be made to query the bilingual arena to obtain suggestions for improving intergovernmental relations. (NQA)

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THE IMPACTS OF BLOCK GRANTS ON THE GOVERNANCE OF FEDERALLY SUPPORTED BILINGUAL EDUCATION PROGRAMS: LESSONS LEARNED FROM PREVIOUS BLOCK GRANT LEGISLATION

Richard K. Jung
Director, Education and Human Services Directorate

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Introduction

As the Federal financial contribution to elementary and secondary "special needs" students has expanded, debate has intensified about the appropriate Federal role in governing these programs. In particular, discrete categorical programs such as Title VII, ESEA are now being reviewed by the current administration to determine if block grants might represent a move effective approach.

At the heart of this debate lie two competing values. One is a belief in the pre-eminent authority of state and local government to provide public education. Local control of education is reflected in the U.S. Constitution, state constitution and a history of court decisions as well as in public school financing. A second value, again reflected in law as well as tradition, is that all children, regardless of race, handicapping condition, or national origin should have access to equal educational opportunities.

In the area of elementary and secondary education, Congress has historically relied primarily on categorical programs with overlapping governance roles for Federal, state, and local implementers to accomodate these competing values. Title VII is no exception.

The inter-dependent administrative responsiblities shared by Federal, state, and local officials implementing Title VII

programs makes a marble cake, rather than a layered one, the more appropriate metaphor for depicting state and Federal relations in the Title VII context.[1] For instance, while Federal requirements for Title VII emphasize a bilinqual instructional strategy, school districts can develop diverse projects according to their own needs and preferences. A block grant approach, on the other hand, would allow greater discretion to state and local officials in deciding how Federal education dollars would be spent. Some block grant proposals have gone so far as to effectively wipe out all Federal requirements to ensure that LEP students would receive any instruction in their native language.

The current debate about block-granting existing federally-sponsored bilingual education programs thus far has proceeded with little recognition of the benefits of the present categorical approach or with little consideration given to the questionable effectiveness of previous block grant legislation in other social service areas.

The following sections of this chapter describe current state-Federal relations in the delivery of bilingual services and summarize the existing research on block grants. These sections illuminate NACBE's rationale for opposing block grants of existing Federal bilingual education programs.

State/Federal Relations in the Delivery of Bilingual services

The history of bilingual education and laws affecting it date back to the early 1800's when an estimated one million children attended bilingual programs in public schools. Most of

the early school laws either specifically authorized using a non-English language as a medium of instruction or inherently permitted it.

Bilingual education then went through a "silent" period that stretched from World War I to the 1960's when community pressure and local support combined to initiate a bilingual program at the Coral Way Elementary School in Dade County, Florida. This program, designed to address the needs of Cuban refugees, was soon followed by other state and locally-funded programs in Texas and the Southwest to meet the needs of Mexican American students.

The Federal government followed the local and state lead four years later when it passed Title VII of the ESEA in 1968. This was the first direct Federal categorical program that was designed specifically to aid limited-English-proficient [LEP] children. Through Title VII, the Federal Government's commitment to aid disadvantaged children was expanded to include students who were having difficulty in school or who were dropping out of school because their English was limited.[2] It was intended to serve as an example for a majority of state and local educational agencies which did not have bilingual programs.

Federal and state courts have also contributed to this commitment. The widely publicized Supreme Court case addressing the issue of equal educational opportunity for LEP children in the Lau v. Nichols case marked one of the stormiest controveries in bilingual education.

Following the Supreme Court's decision in Lau, the Department of Health, Education, and Welfare developed informal policy guidelines, better known as the Lau remedies, which outline the remedial responsibilities of school districts that failed to comply with Title VI of the Civil Rights Act of 1964 and the principles enunciated in Lau. The Lau remedies outline the major elements, that should be included in school districts plans to remedy Title VI violations.

The Lau remedies added to the arsenal of those seeking court-mandated bilingual education by providing a framework for a necessary Federal oversight.

Significantly, the Lau ruling was extended to all LEAs, not just those receiving Title VII monies. Yet, the Lau remedies, do not mandate bilingual education. LEAs are free to propose educational approaches other than those outlined in the Lau remedies. However, most school districts implemented bilingual education because of court order like Lau.

Thus, school officials have various reasons for implmenting bilingual education programs. Some have been prodded by court orders, Federal or state legislation provided the impetus for other LEAs.

In the wake of Lau, some states enacted statutes permitting bilingual education. In the decade following the passage of Title VII, six states, starting with Massachusetts, passed mandatory bilingual legislation. By 1975, the momentum for bilingual education legislation was gaining support in the legislatures of

Massachusetts, Texas, Illinois, New Mexico, New Jersey, California, and Conneticut. Five states operate with bilingual laws which are more prescriptive than Federal ones.[3] However, seven states still have English-only statutes applicable to public schools: Alabama, Arkansas, Delaware, Nebraska, North Carolina, Ohio, and West Virginia. Paradoxically, a few of the states with English-only statutes still offer bilingual programs funded by the Federal government.[4]

State legislation supporting bilingual education varies considerably and is in a state of flux. While California has been a leader both in the number of Title VII funded basic demonstration programs and in the comprehensiveness of its state policy, fervent efforts have continued within the state to weaken or eliminate existing bilingual statutes. Recently, not only California but Illinois and Massachusetts have narrowly defeated similar efforts to undermine bilingual education; Colorado has repealed its law requiring bilingual education in K-3, and Texas is appealing the recent U.S. v. Texas district court decision requiring bilingual education from kindergarten through twelfth grade.

In the seventies, some states revised their statutes or regulations thus moving them closer to Federal requirements. For example, in 1976 California legislation increased the specificity of the special services to LEP students and changed the 1972 voluntary bilingual legislation to mandated bilingual education. In 1977 Texas completed its state plan mandating bilingual education in the lower elementary grades.[5]

Some states have shown their commitment not only in the legislative requirements but also in increased funding; they have not lagged greatly behind the Federal effort. California for example, receives about 25 percent of the Federal Title VII budget or $39.6 million and provides another $25 million of its own monies to fund bilingual programs. While some states have passed bilingual legislation without appropriating funds for it, in 1978-79 state funding for bilingual education was $93.8 million as compared to $135 million from Federal funds.[6]

Federal appropriations for bilingual education also increased steadily over the years from an initial appropriation of $7.5 million in FY 69-70 to $160 million in FY 81-82.

While most categorical programs are subject to problems stemming from local, state, and Federal overlap, at least according to OBEMLA's former Director Josue M. Gonzalez, the problems produced by these parallel structures in bilingual education appear to be dissipating through local capacity-building, increased state legislation for bilingual education, and Federal awareness of its role and support for SEA and LEA efforts.[7]

For Title VII, states have the limited responsibilities of local program review (not approval) and for coordinating technical assistance within the state. SEAs may receive up to 5 percent of the amount of all Title VII grants within the state for performing these tasks. In 1981 OBEMLA showed its support for a state role by giving 47 SEAs $5 million under the SEA Projects Coordinating Technical Assistance Program. Other support systems

are the Evaluation, Dissemination, and Assessment Centers (EDACs) and Bilingual Education Service Centers (BESCs) run directly by OBEMLA.

One of the most complex problems facing American education is establishment of a compatible, working relationship between the Federal government and the state authorities. Some SEA bilingual staff, for example, feel they should have greater authority in the selection and funding of local bilingual projects under Title VII. According to a former director of OBEMLA, however, both Federal and state administrators are making every effort at mutual cooperation.

The four areas of concern in bilingual education least related to Federal/state relations are not restricted to bilingual programs. Other categorical programs also are subjected to the citicisms listed below:

- Local projects need creative solutions to their problems. Often state personnel are more familiar with local needs because they are closer to the sites. On the other hand, in those instances where state personnel very in their support of bilingual education, some local projects could go in want of appropriate and adequate assistance were it not for the Title VII Support Services.

- Administrative costs are high at any level of government. There is need to find ways of reducing paperwork and hence administrative expense without jeopardizing acountability.

- There is need to increase accountability of local projects--hopefully without increasing costs.

-Bilingual education needs community support, political support, in order to be carried out effectively. Some officials feel that increased state authority would broaden the base of support since programs would then be monitored and authorized by officials elected or appointed closer to home. Others feel that putting this authority in the hands of such officials would threaten the equal education opportunities afforded by current bilingual education programs.

Lessons Learned from Previous Block Grant Legislation

One of the means recently being proposed as a solution to the concerns listed above is that of block grants rather than categorical ones. In fact, in August of 1981, President Reagan signed a bill that created a block grant of 28 smaller education programs and loosened or eliminated Title I requirements.

This block grant program, the Education Consolidation and Improvement Act (ECIA) of 1981 could substantially affect the intergovernmental relations of programs serving LEP students. For instance, Title I, affected by ECIA, served 800,000 LEP students last year.[8] Also, Basic Skills Improvement, Community Schools, and Ethnic Hertitage programs were consolidated--all programs that affected lanaguage minority students.

Other major Federal education programs are being considered for block granting including Title VII, ESEA programs. But

before rushing blindly into more block grants, it seems prudent to review the research on previous block grant legislation.

Earlier block grant type programs enacted by Congress (5 between 1966 and 1974) in non-education areas have been scrutinized in major studies conducted by Advisory Commission on Intergovernmental Relations the Brookings Institution, the Urban Institute and the National Academy of Sciences, as well as by individual researchers.[9] These suggest that block grants might be inappropriate for federally funded bilingual programs. Ann Hastings from the Brookings Institution notes that for blocks grants:

> the record is mixed....In most cases the number of Federal personnel was reduced; on the other hand, there was a significant increase in the numbers of state and local personnel required to administer the programs...While in some block grants, paperwork seems to have been reduced, in others such as the community development block grant, many administrators reported no change or an actual increase in paperwork. Moreover, as the block grants have come up for reauthorization, Congress frequently has added new controls to restrict the actual or alleged misuse of Federal funds. These new controls have added paperwork.[10]

In addition, this assessment of previous block grants indicated that despite continued targeting by some recipients, others "have taken full advantage of vague legislative wording and lack of Federal surveillance to use their money for purposes clearly unintended by Congress."[11]

In reviewing the track record of block grants, the Avisory Commission on Intergovernmental Relations [ACIR] recommends the

use of block grants instead of categorical programs only under certain conditions, three conditions do not seem to apply to most Federal support of bilingual education. These three conditions are:

- a high degree of consensus over general purposes exists among the Congress, the federal administering agency, and recipients.
- program needs are widely shared both geographically and jurisdictionally, and
- the broad functional area to be covered is a major component of the recipient's traditional range of services and direct funding;[12]

The first condition for block grants identified by ACIR does not generally apply to Federal bilingual programs since there is stil widespread disagreement over the goals, purposes, and approaches for providing bilingual services to LEP students. Controversy still exists over whether Title VII programs should emphasize capacity-building or direct services to students. While the legislation is filled with program demonstration language, actual activities funded by Title VII basic grants often have service-oriented rather than capacity-building goals. Debate also continues over the "maintenance" vs. "transitional" approaches of bilingual education among Federal agency officials, minority interest groups, and members of Congress.

With regard to the second characteristics poisted by ACIR, bilingual education programs are scattered throughout the nation. The need for bilingual education is simply not spread equally across states.

Finally, the third condition laid out by ACIR for effective use of block grants is not met. For many LEAs, bilingual education has not been an integral part of their educational offerings either historically or currently. While court orders and citizen pressure have resulted in the adoption of bilingual education by some LAs, it is questionnable whether they see it as a basic part of their service delivery.

Policy Implications

There appears to be at least three major implications of these assessments and conditions for educational policymakers.

First, Congress and the Administration should encourage a wider dissemination and a closer scrutiny of research on previous block grants to see what lessons are to be learned about block-granting Federal programs for bilingual education. Closer attention needs to be paid to the effects on intergovernment relations of changes made in ECIA, especially as they pertain to services for LEP students.

Second, a systematic review should be made of present OBEMLA-administered programs to determine which, if any, might logically be combined under a single authorization. For instance, existing programs might be grouped according to their emphasis on research and demonstration, professional development and training, technical assistance, and direct services to students.

Third, however, Federal programs providing instructional services to LEP students are particularly unsuited for inclusion in a block grant with other special needs students. Instead, a

systematic effort should be made to query the bilingual arena to obtain suggestions for improving intergovernmental relations. Part of the move in favor of block grants is generated by the need to address several problems seemingly inherent in categorical programs such as excessive paperwork and constraints on local decisionmaking. Program implementors and representatives of LEPs need to be queried regarding the degree to which some or any of these "problems" are existent in programs presently operated by OBEMLA. If they do exist, then these implementors and other stake-holders should be asked to recommend alternatives less drastic than block granting of programs targeting instructional services to LEP students.

FOOTNOTES

[1] Frederick Wirt and Michael Kirst, Political and Social Foundation of Education (Berkely, California: McCutchan, 1972), p.148.

[2] Susan Gilbet Schneider, Revolution, Reaction or Reform: The 1974 Bilingual Education Act, (New York: Las Americas Publishing Co.,), 1976.

[3] David G. Carter et. al., "Bilingual-Bicultural Education - A Legal Analysis", Education and Urban Society, Vol. 10, No. 3, May 1978, p. 298.

[4] Tracy C. Gray et. al., The Current Status of Bilingual Education Legislation, (Washington, D.C.: Center for Applied Linguistics,), January 1981, p.1.

[5] Heidi Dulay and Marina Burt, "Current State Level Trends in the Assessment of Language Minority Student: An Introduction", Current Issues in Bilingual Education, (Washington, D.C.: Georgetown University Round Table on Languages and Linguistics), 1980, p. 223.

[6] Melinda Melendez, "Support and Advocacy: Interest Group Growth", Vol. 2, No. 4, (Stanford, California: Institute for Research on Education Finance and Goverance,) Autumn 1981, p.4.

[7] Gonzalez, Josue M., "Bilingual Education: Issues for the '80s", Current Issues in Bilingual Education, (Washington, D.C.: Georgetown University Round Table on Languages and Linguistics,) 1980, p. 5.

[8] U.S. Department of Education's Annual Evaluation Report on Education Programs estimates that 16 percent of the students grades 1-6 served in the Title I program are from homes where Spanish or a language other than English is the primary language (1980, p. 14). Approximately 5.2 milliion students participated in the Title I program in school year 1979-80.

[9] More specifically these programs included: in health, the Partnership for Health Act of 1966; in law enforcement, the Omnibus Crime Control and Safe Streets Act of 1968; in manpower training, the Comprehensive Employment and Training Act (CETA) of 1973; in community development, the Housing and Community Deelopment Act of 1974; and in social services, the Title XX Amendments of 1975 to the Social Security Act.

[10] Ann Hastings, "The Block Grant Record: Expections, Experience, and Implications," paper delivered at the Annual Meeting of the American Educational Research Association, Los Angeles, California, April 13, 1981, p. 7.

[11] Hastings, p. 8

[12] Advisory Commission on Intergovernmental Relations. Block Grants: A Comparative Analysis, Report A-60 (Washington, D.C.: U.S. Government Printing Office, 1977), p.4.

	1981 Appropri-ations (in thou-sands)	1982 Appropri-ations (in thou-sands)	% Decline 1981-82	1983 Appropri-ations (in thou-sands)	% Decline or Increase 1981-83	Proposed 1983 Appro-priations Recessions/ Supplementals (in thousands)	% Decline 1981-83	1984 Presi-dents Request (in thou-sands)	% Decline 1981-84
ECIA Chapter 2 (1981, 28 Antece-dent Programs)	537,485	470,400	-12.5%	479,420	-10.8%	476,879	-11.3%	478,879	-11.3%
Bilingual Educa-tion and Minority Language Affairs	161,427	138,058	-14.5%	138,057	-14.5%	94,534	-41.4%	94,534	-41.4%
ECIA Chapter 1 (1981, Title I, ESEA)	3,104,317	3,033,969	-2.3%	3,160,394	+1.8%	3,033,969	-2.3%	3,013,969	-2.9%

A CROSS-TIME COMPARISON OF APPROPRIATIONS AND PROPOSED APPROPRIATIONS FOR FEDERAL BLOCK GRANT AND PROGRAMS TARGETED TO LEP AND EDUCATIONALLY DISADVANTAGED CHILDREN